

FOSTER SWIFT

FOSTER SWIFT COLLINS & SMITH PC | ATTORNEYS

Lansing | Farmington Hills | Grand Rapids | Detroit | Marquette | Holland

Lansing
313 S Washington Square
Lansing MI 48933

Marquette
205 S Front Street - Suite 2D
Marquette MI 49855

Walter S. Foster
1878-1961
Richard B. Foster
1908-1996
Theodore W. Swift
1928-2000
John L. Collins
1926-2001

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Benjamin J. Price
Ronald D. Richards, Jr.
Frank T. Mamon
Michael R. Bhan
Norman E. Richards
Jonathan J. Dwyer

Farmington Hills
32300 Northwestern Highway - Suite 230
Farmington Hills MI 48334

Detroit
333 W Fort Street - 11th Floor
Detroit MI 48226

Frank H. Reynolds
Pamela C. Dausman
Andrew C. Vredenburg
John M. Kamins
Jack A. Siebers
Julie I. Fershtman
Todd W. Hopps
Johanna M. Novak
Iris K. Linder
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Nichole J. Derks
Patricia J. Scott
Lindsay E. Bosch
Nicholas M. Oertel
Erica E.L. Huddas

Grand Rapids
1700 E Beltline NE - Suite 200
Grand Rapids MI 49525

Holland
151 Central Avenue - Suite 260
Holland MI 49423

Nicole E. Stratton
Janene McIntyre
David R. Russell
Mindi M. Johnson
Lauren B. Dunn
Alicia W. Birach
Thuy H. Littleton, II
Kari L. Sherry
Stephen A. Cooley

Of Counsel
Lawrence B. Lindemer
Boris VanderHagen
Johan O. Maki
Dana M. Bennett

Writer's Direct Phone: (517) 371-8241 Fax:

Reply To: Lansing

E-Mail: edotter@fosterswift.com

January 3, 2013

By Facsimile Transmission - (202) 219-3923
By Email Transmission (jjordan@fec.gov)

Jeff S. Jordan
Supervisory Attorney
Complaints Examination & Legal Administration
Federal Election Commission
999 E. Street, NW
Washington, D.C. 20463

Re: Complaint against Prosperity for Michigan (MUR 6613); Response by The American Way-Durant 2012, and Walter Czarnecki, in his official capacity as Treasurer

Dear Mr. Jordan:

We are responding on behalf of The American Way-Durant 2012 and Walter Czarnecki, in his official capacity as Treasurer pursuant to your November 5, 2012 letter in the above-referenced matter. Your November 5, 2012 letter enclosed a July 24, 2012 Complaint against Prosperity for Michigan (PFM). Your November 5, 2012 letter explains that the "complaint was not sent to you earlier due to an administrative oversight." In this regard, we respectfully request that the Federal Election Commission exercise its prosecutorial discretion and take no action against our clients for the delay in sending the Complaint, because this is now a stale case. Moreover, since the Complainant has requested dismissal of this Complaint against Prosperity for Michigan and any "Unnamed Respondents" (see attached December 12, 2012 letter from Hoekstra for Senate), any action against our clients does not warrant the use of the Federal Election Commission's resources to pursue because this matter is insignificant. Consequently, for these purely administrative reasons, any application of the Complaint against our clients should be dismissed.

Assuming that the Federal Election Commission requires some sort of substantive response from our clients, please note that the Complaint made no allegations against our clients. For this

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Jeff S. Jordan
January 3, 2013
Page 2

reason, we note that your November 5, 2012 letter indicates that we should respond to only footnote #4 of the Complaint.

Footnote #4 states that "PFM's ad is strikingly similar to an paid for and sponsored by Clark Durant's official campaign committee and which began running the same day. Both ads address the exact same topics, including allegations against Hoekstra about earmarks, raising pay, voting for bailouts and raising debt, and raising the debt ceiling... . Such marked similarities raise serious questions about coordination between PFM and Durant's official campaign."

First, there was NO coordination between the Durant campaign and the PFM advertising efforts. The similarity in the content of the ads stems from the longstanding and consistent objections by many people to Pete Hoekstra's record. This was not Pete Hoekstra's first campaign for statewide office. He had run for Michigan Governor two years prior and his record "about earmarks, raising pay, voting for bailouts and raising debt, and raising the debt ceiling" was aired two years ago in numerous televised ads across the state by one of his primary opponents, then Michigan Attorney General Mike Cox.

Pete Hoekstra started out as the favorite candidate in that gubernatorial race and lost the primary election when his record of "earmarks, raising pay, voting for bailouts and raising debt, and raising the debt ceiling" was made public in televised ads, debates, and open forums by Attorney General Mike Cox. This was almost two years prior to the Durant campaign running similar ads on similar themes as the Cox campaign. Everyone's complaint about Pete Hoekstra, not just the Durant campaign and Prosperity for Michigan, had been for years his public votes on these issues. This is not about coordination between campaigns. Both the Durant campaign and Prosperity for Michigan ran ads on the longstanding standard objections by many, many people to Pete Hoekstra's record.

Second, the words in Durant's ads are simply repetitions, in a very creative way, of phrases and ideas which were expressed by candidate Durant about Hoekstra in the Durant for Senate campaign announcement <http://www.clarkdurant.com/2012/01/11/freedom-works/> in September of 2011, at nearly one dozen public forums, in media interviews, in outbound email blasts to prospective voters, in campaign You Tubes, in Durant for Senate fundraising letters, and in February ads run by Durant campaign during the Michigan Presidential primary, long before Prosperity for Michigan ran any ads. Here is a video clip of a February 2012 Durant for Senate advertisement which expresses these themes: http://www.youtube.com/watch?v=9H6kULeaW_U. It aired on state-wide television approximately four to five months before the advertisements referenced in footnote #4.

Therefore, any "marked similarity," between the Durant campaign and the PFM advertising was not the result of coordination, but the result of Pete Hoekstra's record.

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Jeff S. Jordan
January 3, 2013
Page 3

To the extent that this letter makes any factual assertions, we are hereby attaching the Affidavit of Andrius Anuzis.

Accordingly, based on the foregoing reasons, we respectfully request that this matter be dismissed against our clients.

Sincerely,

FOSTER SWIFT COLLINS & SMITH, P.C.



Eric E. Doster

/dr
Attachments

cc: Walter Czarnecki (w/attachments)
Charles R. Spies (w/attachments)

99999:EDOSTER:1506220-1

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CLARK HILL

Charles R. Spies
T 202.572.8663
F 202.572.8683
Email: cspies@clarkhill.com

Clark Hill PLC
601 Pennsylvania Avenue NW
North Building, Suite 1000
Washington, DC 20004
T 202.772.0909
F 202.772.0919
clarkhill.com

December 12, 2012

Jeff S. Jordan
Supervisory Attorney
Complaints Examination & Legal Administration
Federal Election Commission
999 E Street NW
Washington, DC 20463
VIA FACSIMILE: (202) 219-3923

Re: **Complaint against Prosperity for Michigan (MUR 6613) –
Request for Dismissal**

Dear Mr. Jordan:

On behalf of Hoekstra for Senate, we respectfully suggest that our July 24, 2012 complaint against Prosperity for Michigan, and Jennifer Satterlee, in her official capacity as Treasurer ("Named Respondents"), be dismissed due to prosecutorial discretion. For the same reason, we also ask that the complaint be dismissed as to all unnamed Respondents in this matter, which may include Clark Durant, The American Way – Durant 2012, and Walter Czarnecki, in his official capacity as Treasurer ("Unnamed Respondents").

Because the 2012 campaign is over, and both the Named and Unnamed Respondents were unsuccessful and have represented to us that they now have limited financial resources, we believe the Commission's limited time and resources would be better spent addressing other more pressing matters. Thank you in advance for your consideration of this suggestion.

Respectfully submitted,



Charles R. Spies
Counsel to Hoekstra for Senate